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| 10/004,926   | 12/05/2001  | Carl P. Gusler       | AUS920011005US1     | 9814             |
| <div><div>7590</div><div>07/12/2007</div><div>Kelly K. Kordzik<br/>5400 Renaissance Tower<br/>1201 Elm Street<br/>Dallas, TX 75270</div></div> |             |                      |                     |                  |
|  |             |                      | EXAMINER            |                  |
|  |             |                      | SALCE, JASON P      |                  |
|  |             |                      | ART UNIT            | PAPER NUMBER     |
|  |             |                      | 2623                |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                               |                               |  |
|------------------------------|-------------------------------|-------------------------------|--|
| <b>Office Action Summary</b> | Application No.<br>10/004,926 | Applicant(s)<br>GUSLER ET AL. |  |
|                              | Examiner<br>Jason P. Salce    | Art Unit<br>2623              |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 April 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 3-8, 13-18 and 23-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-8, 13-18, 23-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 4/24/2007 have been fully considered but they are not persuasive.

Applicant argues that Burnhouse fails to disclose the claim limitations, "wherein if said broadcast signals include said tags then the method further comprises the step of: comparing tags with a list of one or more classifications associated with said plurality of television stations". Applicant further notes that the examiner has cited paragraphs 0036 and 0040 and that there is no language in the cited passages that disclose comparing tags with a list of one or more classifications. The examiner agrees that the Burnhouse reference does not state (verbatim) comparing tags with a list of one or more classifications, however, this does not negate the fact that Burnhouse teaches the claimed limitations. As the examiner had previously attempted to explain in the previous Office Action, Paragraph 0036 of Burnhouse teaches that the CPU 29 generates a table of pointers 401 to the EPG stored in the memory. As seen from Figure 3, this data includes categories and subcategories (tags for associating each of said plurality of television stations with one or more classifications). Therefore, when a user selects a category (list of **one or more** classifications associated with a plurality of television stations) from the folder guide display disclosed in Figure 9, the EPG data of Figure 3 must be parsed in order to determine which programs (containing the selected category from the EPG in Figure 9) are displayed to the viewer, which is further described in Paragraph 0040. Further note Paragraph 0052 for further disclosing that

the selection of a specific category (and/or subcategory) results in the display of a tailored EPG. The examiner notes that if no comparison took place to determine which programs should be displayed as a result of the selection of the specified category then after the selection of the specified category, there would be no programs to display.

Applicant also argues that Burnhouse fails to disclose, "wherein said one or more folders associated with said one or more classifications for said plurality of television stations on said display are displayed according to a base set if there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags". As explained in the previous Office Action, a base set is representative of a category, while a sub-category is representative of a specific set. For example, if a user selects sports from the folder guide of Figure 9, all programs related to the base set of sports are displayed. Therefore, this is no difference between the programs that can be further divided into subcategories, because only a category is selected, therefore teaching a base set relating to the selected category.

Applicant also argues that Burnhouse fails to disclose, "wherein if there are differences between said list of one or more classifications associated with said plurality of television stations and said tags then the method further comprises the steps of: updating said list of one or more classifications associated with said plurality of television stations to become a new base set". The examiner disagrees and further notes Paragraph 0057 and Figure 9, which allows a user to select a category (base set)

of programming. The examiner notes that the system is not limited to a user only selecting one category and then stuck with this category selection, the system permits a user to return to the base screen of Figure 9 and select a different category of programming, thereby allowing a new base set to be selected (Further note the flow chart of Figure 7 and Paragraphs 0054-0055 for allowing a user to return to the category selection menu if a different category is desired for selection).

In regards to the 103 rejection of claim 6, Applicant argues that Ismail fails to provide proper motivation for the combination of Burnhouse and Ismail. Applicant further ask the question: "Why would the reason to modify Burnhouse (whose purpose is to generate a folder guide to generate tailored broadcast system electronic program guides) to display one or more folders associated with one or more classifications for the plurality of television stations on the display according with one or more classifications for the plurality of television stations on the display according to a base set if the broadcast signals do not include said tags (missing claim limitation) be to allow acceptable memory costs during the manufacture of the set top box?".

The examiner notes that in order to understand the answer to this question, Applicant must recognize how the examiner has interpreted the broad claim limitations. The examiner is taking a broadest reasonable interpretation to the claims. While the specification of the instant application teaches that a base set is created according to the tags and if no tags are present, the television programs that have no tag information are placed into a dump/other/miscellaneous folder. However, the claims are broad and

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simply state that folders are displayed according to a base set if the broadcast signals do not include said tags (EPG information). Therefore, if Burnhouse were modified to periodically update EPG data, then the time between updates (days, weeks, months) the broadcast signals would not include tag information, therefore, Burnhouse would be modified to display folders according to a base set (sports) if said broadcast signals do not include said tags (because the EPG has not been updated, therefore, the time between updates represents the time broadcast signals do not include tags). The examiner understands this interpretation is different from Applicant's specification, however, the claims have been drafted broadly and the examiner's broadest reasonable interpretation is proper.

In regards to arguments stating that the motivation is improper, the examiner notes that clearly by modifying Burnhouse to periodically update EPG data, Burnhouse gains the advance of only needing a limited amount of storage at the viewer's set-top box dedicated for storing the EPG, as well as numerous other advantages that are gained from periodically updating an EPG at the viewer's set-top box.

In regards to the 103 rejections of claims 7-8, Applicant argues that Rashkovskiy fails to teach adding or deleting a folder. Again, as stated in the previous Office Action, Figure 6 and Paragraph 0014 clearly disclose adding category folders (further notes Paragraphs 0036-0038 regarding Figure 6).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 3-5, 11-15 and 21-25 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Burnhouse et al. (U.S. Patent Application Publication 2002/0056104).

Referring to claim 3, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraph 0062).

Burnhouse discloses determining whether said broadcast signals include tags for associating each of said plurality of television stations with one or more classifications (see Paragraph 0035 and Figure 3 for each program signal carrying different types of tags for category, subcategory, etc.).

Burnhouse discloses that if the broadcast signals include said tags then comparing said tags with a list of one or more classifications associated with said plurality of television stations (see Paragraphs 0036 and 0040). The examiner notes

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that at Paragraph 0036, Burnhouse teaches that a table of points 401 to the EPG is stored in the memory. Note that in Figure 3 clearly teaches that the EPG contains category and subcategories. Paragraph 0036 further teaches that table 401 is used for changing the order of the programs according to the information to be presented in the guide to user (e.g. selecting a category or subcategory to configured a specified display of programs as shown in Figure 5) as well as that table 401 includes an entry for the address pointer to the corresponding program data (which as shown in Figure 5 includes the category and subcategory data). Therefore using table 401, when a user selects a category and subcategory to generate a program guide corresponding to a category and/or subcategory, the table is accessed and the selected category and subcategory (one or more classifications associated with said plurality of television stations) are compared to the program data (incoming tags).

Referring to claim 4, Burnhouse discloses that folders are displayed according to a base set if there are no differences between said list of one or more classifications associated with said plurality of television stations and said tags (see Paragraph 0041 and Figure 5 for creating a folder EPG based on the category tag of the program (Figure 3) and that if a first and second program has a category sports, both the first and second program will be categorized in the sports folder, therefore the base set corresponds to only the category).

Referring to claim 5, Burnhouse discloses that if there are differences between said list of one or more classifications associated with said plurality of television stations and said tags (i.e. a new category has been determined) then the list of one or more classifications associated with said plurality of television stations is updated and a new base set is created (see Paragraph 0036 and note that if a category tag is found in a program that has not been set as a category that according to the process described in Paragraph 0036 and Figure 4, a new category/base set will be created and associated indications to television program will be stored therein). Therefore, when table 401 is created, a base set is created for every category so that when a user selects a specific category, only programs corresponding to that base set will be displayed.

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on said display according to said new base set (see Figures 9-10).

Referring to claims 13-15, see the rejection of claims 3-5, respectively.

Referring to claims 23-25, see the rejection of claims 3-5, respectively.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 6, 16 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Ismail et al. (U.S. Patent No. 7,146,627).

Referring to claim 6, Burnhouse discloses all of the limitations in claim 2, as well as said one or more folders associated with said one or more classifications for said plurality of television stations on said display (see Figures 9-10) and that the EPG data is maintained in memory (see Paragraph 0032), but is silent as to displaying folders according to a base set if said broadcast signals do not include tags. The examiner continues to stress that Burnhouse only teaches receiving the EPG data once, therefore since no teaching of EPG updating exists in Burnhouse, the examiner relies on a teaching of such a update in order for the combination of Burnhouse and the teaching reference to provide a system which displays various types of category EPGs, the first being a base set of EPG data based on tags received in the broadcast signals, and a second based on an updated new base set of EPG data, which is organized and displayed in the folders EPG of Burnhouse.

After further review of Applicant's Arguments and the specification of the instant application (specifically Figures 3A and 3B), when a broadcast signal is received with a tag, the tag is compared to the pre-existing database of classifications (EPG data previously received) and if a difference is found between the received tag and the pre-existing classifications data, then a new classification and folder is created and displayed to the user, however, if a tag (for example updated EPG data) has not been received, the default menu is displayed to a user. The examiner notes that although

Burnhouse teaches receiving the EPG data with the category/subcategory tags used for displaying the folders, Burnhouse is silent about updating the EPG data every day, week or hour, therefore not teaching that a base set is displayed between the time the EPG data is initially received and then updated later in time.

Therefore, Ismail is used to teach displaying EPG data according to a base set if said broadcast signals do not include said tags, by teaching that EPG data is being periodically updated (see Column 27, Lines 41-59, Column 31, Lines 5-37 and Column 33, Line 65 though Column 34, Line 32), therefore when a user views an EPG before it is updated, tags have not been received and a base set is displayed if the EPG has not been updated with new data. Additionally a new base set will inherently be displayed when the EPG data has been updated. The examiner notes that this is consistent with Figures 3A and 3B of the instant application discussed above.

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art, to modify the EPG reception system, as taught by Burnhouse, using the updating EPG data reception system, as taught by Ismail, for the purpose of allowing the viewer's set top box to store one or two weeks of EPG data for selective access by the viewer via a menu of the set top box (see Column 27, Lines 41-45 of Ismail), which additionally allows acceptable memory costs during manufacture of the set top box (see Column 27, Lines 58-59 of Ismail), by only transmitting a limited amount of EPG data at a time.

Referring to claims 16 and 26, see the rejection of claim 6.

4. Claims 7-8, 16-18 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burnhouse et al. (U.S. Patent Application Publication 2002/0056104) in view of Rashkovskiy (U.S. Patent Application Publication 2004/0034867).

Referring to claim 7, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraphs 0061-0062).

Burnhouse is silent about receiving an input to add a particular folder and adding said particular folder.

Rashkovskiy teaches that each folder can be user definable (see Paragraph 0014 and Figure 6).

At the time the invention was made, it would have been obvious to modify the folder categorization procedure, as taught by Burnhouse, to include the manual categorization procedure, as taught by Rashkovskiy, for the purpose of better organizing the available content for easier selection and viewing (see Paragraph 0006 of Rashkovskiy).

Referring to claim 8, Burnhouse discloses receiving broadcast signals for a plurality of television stations (see Figures 3-4 and Paragraph 0024).

Burnhouse also discloses displaying one or more folders associated with one or more classifications for said plurality of television stations on a display (see Figures 9-10 and Paragraph 0057), wherein each of said one or more folders comprises one or more indications associated with one or more television stations (see Paragraph 0062).

And although Burnhouse discloses that a favorite channel option exists in the program guide of Burnhouse (see Paragraph 0056), Burnhouse is silent about receiving input to add or delete an indication associated with a particular television station (a program in the category list) associated with a particular folder and adding or deleting said indication associated with said particular television station associated with said particular folder.

Rashkovskiy discloses a specific favorite program selection option in Paragraph 0020, which allows the viewer to add a favorite program to his/her list of favorite program that are displayed in the folders menu.

At the time the invention was made, it would have been obvious to modify the favorite program option, as taught by Burnhouse, to include the favorite program option, as taught by Rashkovskiy, for the purpose of better organizing the available content for easier selection and viewing (see Paragraph 0006 of Rashkovskiy).

Referring to claims 16-18, see the rejection of claims 6-8, respectively.

Referring to claims 26-28, see the rejection of claims 6-8, respectively.

***Conclusion***

**5. THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason P. Salce whose telephone number is (571) 272-7301. The examiner can normally be reached on M-F 9am-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

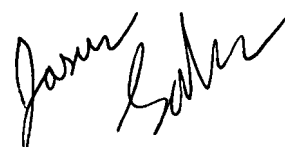
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Jason P Salce  
Primary Examiner  
Art Unit 2623

July 3, 2007

JASON SALCE  
PRIMARY PATENT EXAMINER

A handwritten signature in black ink, appearing to read "Jason Salce", written over the printed name and title.